IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Chuni Bai & Anr. Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.358/2005

DATE OF ORDER :: October 13, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Vineet Jain, for the petitioner.

Mr. Ashok Upadhyaya, P.P.

None present for non-petitioner No.2 though served.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioners seek quashing of FIR No.108/2005, Police Station, Rajnagar, Distt. Rajsamand for the offences under sections 147, 148, 149, 341, 323 and 366 I.P.C.

I have heard learned counsel for the petitioners and the Public Prosecutor for the State. Carefully gone through the FIR.

It is contended by the learned counsel for the petitioners that Smt. Chuni Devi, who is petitioner No.1, is the wife of petitioner No.2 and the complainant has wrongly claimed in the FIR to be his wife. Learned counsel for the petitioners submits that the complainant Jai Singh Parmar has filed a D.B. Habeas Corpus Writ Petition No.2420/2005 before this Court and the Division Bench of this Court vide order dt. 2.5.2005 passed the following order:

> "Chunni Devi has been produced in Court. She was relegated t the Chambers in the company of our lady steno. She was made to have reflection in comfort. Thereafter, she was asked questions in presence of learned counsel for the petitioner, having been summoned in Chambers. She was candid and straight forward that She has nothing to do with the petitioner. Her allegations are that she has been allured by the petitioner to go out of her wedlock. She has nothing to do with the petitioner. She wants to peacefully live with Shanker Singh who is her legally wedded husband.
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> In view of the above statement of the lady we do not think that case survives in favour of petitioner Jai Singh. While parting we would say that this kind of petitions in which petition is not sure of the reaction of the lady involved should not be encouraged to approach this Court in Habeas Corpus."

Keeping in view the aforesaid order, in my view, when the

petitioner No.1, categorically made statement before the Division Bench that she is legally wedded wife of petitioner No.2, therefore, complainant Jai Singh, who claims the petitioner No.1 to be his wife is without any foundation. In the circumstances, therefore, to allow such an FIR is nothing but an abuse of process of Court.

In the result, the petition is allowed. The FIR No.108/2005, Police Station Rajnagar and any proceeding taken thereunder are quashed. Stay petition also stands disposed of.

[H.R.PANWAR],J.

m.asif/-